

REMARKS

Claims 1-21 are pending in the present application. Claims 1-21 are now presented and considered to be in condition for allowance. The Applicants respectfully request reconsideration and allowance of all claims.

Rejection of Claims 1-21 under 35 U.S.C. §103(a) as being unpatentable over Byun in view of Hughes et al.

The Examiner has rejected Claims 1-21 under 35 U.S.C. §103(a) as being unpatentable over Byun (U.S. Patent No. 6,445,728) in view of Hughes et al. (U.S. Patent No. 6,320,849). Applicants respectfully assert that under 35 U.S.C §103(c), Hughes et. al. should be removed as a reference against the above-identified application.

35 U.S.C. 103(c) states:

(c) Subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, should not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

Hughes et al. only qualifies as a reference under 35 U.S.C. §102(e) because the patent was issued on November 20, 2001, which is after the Applicants' filing date of March 31, 2000. The Hughes et al. reference and Applicants' invention were owned by Qualcomm Incorporated and both subject to an obligation of assignment from each inventor at the time the invention was made. Qualcomm Incorporated funded the development and employed each inventor for the Hughes et al. invention and Applicants' invention.


Qualcomm Incorporated is listed as an assignee on the Hughes et al. patent. Further, the Applicants' invention was recorded as being assigned to Qualcomm Incorporated in the United States Patent & Trademark Office on April 2, 2001 found on Reel/Frame 011696/0841. Enclosed is a copy of the Notice of Recordation of Assignment document.

Therefore, the Applicants request that the Examiner withdraw Hughes et al. as a reference under 35 U.S.C. §103 and allow all claims.

In view of the foregoing, reconsideration of the application and allowance of all claims is respectfully requested. The Examiner is invited to call the undersigned agent if a telephone call could help solve any remaining items.

Respectfully submitted,

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